At the time this view was expressed a considerable amount of uncertainty existed on the subject, which is natural enough as these tenancies are usually only found in the case of small properties and disputes do not come before the superior courts. As the result of the Rent Restriction Acts in England a great deal of litigation resulted and the matter has now been clarified.

As a result I think it may be taken as certain—

(a) That a weekly or monthly tenancy is not a succession of leases for a week or month which appears to have been the view of Sproule J., but one of indefinite duration which exists until terminated by act of party or operation of law.

(b) Such a tenancy is an interest which is transmitted to personal representatives.

Therefore the Plaintiff is not entitled to recover possession as the tenancy is still in existence.

A further attempt was made to show that the tenancy had been forfeited by non payment of rent. This was clearly untenable.

The claim for mesne profits also fails.

Judgment for defendants.

[APPELLATE CRIMINAL JURISDICTION]

MURRAY-AYNSLEY, J.

October 19, 1939.

MOHAMED NOR v. PUBLIC PROSECUTOR.

[PERAK MAGISTRATE'S CRIMINAL APPEAL No. 76 of 1939]

Evidence—weight of—witness remaining in Court during trial—right to give evidence.

The fact that a witness remains in Court during the progress of a trial is no ground for refusing to allow him to give evidence, although it may reduce the weight to be attached to such evidence as may be given.

MAGISTRATE'S CRIMINAL APPEAL.

Kotval, for the Appellant.

Brodie, Deputy Public Prosecutor, for Respondent.

Murray-Aynsley, J.—In this case the Magistrate refused to accept the evidence of a witness because the witness had remained in Court and had not retired when witnesses were told to do so. In my opinion this is no ground for refusing to allow a witness to give evidence although it may reduce the weight to be attached to such evidence as may be given.

There must be a new trial before a different Magistrate.

New trial ordered.